

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

MAURICE RAY SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-12-1053-D
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of Social	)	
Security Administration,	)	
	)	
Defendant.	)	

**ORDER**

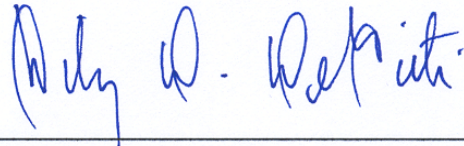
This matter comes before the Court for consideration of Plaintiff's Motion for Award of Attorney Fees [Doc. No. 20], filed pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. Plaintiff seeks an award of fees in the amount of \$5,018.30 to compensate his attorney for 27.2 hours of legal services provided in the case. Plaintiff is the prevailing party in this action under 42 U.S.C. § 405(g) by virtue of the Agreed Judgment and Order of Remand entered February 23, 2013. The Acting Commissioner has responded by stating she has no objection to the requested amount or to an award payable to Plaintiff, consistent with *Astrue v. Ratliff*, 130 S. Ct. 2521, 2529 (2010), and *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

After consideration of the law, the record, and the arguments of the parties, the Court finds: (1) the Commissioner's position in the case was not substantially justified; (2) Plaintiff is entitled to an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of attorney fees requested is reasonable.

IT IS THEREFORE ORDERED that Plaintiff's Motion is GRANTED. The Court orders an award of attorney fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of

\$5,018.30. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized, Plaintiff's attorneys shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 1<sup>st</sup> day of April, 2013.

A handwritten signature in blue ink, reading "Timothy D. DeGiusti". The signature is written in a cursive, flowing style. The first name "Timothy" is written with a large 'T' and a small 'y'. The middle initial "D." is written with a large 'D' and a period. The last name "DeGiusti" is written with a large 'D' and a small 'i' at the end.

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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE